

Expedited Bill No. 19-04  
Concerning: Collective Bargaining –  
Police -  
Revised: 6-18-04 Draft No. 1  
Introduced: June 22, 2004  
Enacted: July 13, 2004  
Executive: July 16, 2004  
Effective: July 16, 2004  
Sunset Date: None  
Ch. 15, Laws of Mont. Co. 2004

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) provide a process to resolve bargaining impasses over reopener issues and the employer's exercise of management rights that have an impact on bargaining unit employees;
- (2) make it a prohibited practice for the employer to refuse to participate in the impasse procedure after the employer implements a final offer on the effects of the exercise of an employer right; and
- (3) generally amend the law regarding collective bargaining with County police officers.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-81 and 33-82

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Sections 33-81 and 33-82 are amended as follows:**

**33-81. Impasse procedure.**

\* \* \*

(c) An impasse over a reopener matter or the effects on employees of an exercise of an employer right must be resolved under the procedures in this subsection. Any other impasse over a matter subject to collective bargaining must be resolved under the impasse procedure in subsections (a) and (b).

(1) Reopener matters.

(A) If the parties agree in a collective bargaining agreement to bargain over an identified issue on or before a specified date, the parties must bargain under those terms. Each identified issue must be designated as a “reopener matter”.

(B) When the parties initiate collective bargaining under subparagraph (A), the parties must choose, by agreement or through the processes of the American Arbitration Association, an impasse neutral who agrees to be available for impasse resolution within 30 days.

(C) If, after bargaining in good faith, the parties are unable to reach agreement on a reopener matter by the deadline specified in the collective bargaining agreement, either party may declare an impasse.

(D) If an impasse is declared under subparagraph (C), the dispute must be submitted to the impasse neutral no later

than 10 days after impasse is declared.

(E) The impasse neutral must resolve the dispute under the impasse procedure in subsection (b), except that:

(i) the dates in that subsection do not apply;

(ii) each party must submit to the impasse neutral a final offer on only the reopener matter; and

(iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers.

(F) This subsection applies only if the parties in their collective bargaining agreement have designated:

(i) the specific reopener matter to be bargained;

(ii) the date by which bargaining on the reopener matter must begin; and

(iii) the deadline by which bargaining on the reopener matter must be completed and after which the impasse procedure must be implemented.

(2) Bargaining over the effects of the exercise of an employer right.

(A) If the employer notifies the employee organization that it intends to exercise a right listed in Section 33-80(b), the exercise of which will have an effect on members of the bargaining unit, the parties must choose by agreement or through the processes of the American Arbitration

Association an impasse neutral who agrees to be  
available for impasse resolution within 30 days.

(B) The parties must engage in good faith bargaining on the  
effects of the exercise of the employer right. If the  
parties, after good faith bargaining, are unable to agree  
on the effect on bargaining unit employees of the  
employer's exercise of its right, either party may declare  
an impasse.

(C) If the parties bargain to impasse over the effects on  
employees of an exercise of an employer right that has a  
demonstrated, significant effect on the safety of the  
public, the employer may implement its last offer before  
engaging in the impasse procedure. A party must not  
exceed a time requirement of the impasse procedure. A  
party must not use the procedure in this paragraph for a  
matter that is a mandatory subject of bargaining other  
than the effects of the exercise of an employer right.

(D) The parties must submit the dispute to the impasse  
neutral no later than 10 days after either party declares an  
impasse under subparagraph (B).

(E) The impasse neutral must resolve the dispute under the  
impasse procedures in subsection (b), except that:

(i) the dates in that subsection do not apply;

- (ii) each party must submit to the impasse neutral a final offer only on the effect on employees of the employer's exercise of its right; and
- (iii) the impasse neutral must select the most reasonable of the parties' final offers no later than 10 days after the impasse neutral receives the final offers and, if appropriate, must provide retroactive relief.

(F) If the impasse neutral has not issued a decision within 20 days after the impasse neutral receives the parties' final offers, the employer may implement its final offer until the impasse neutral issues a final decision.

### **33-82. Prohibited practices.**

(a) The employer or its agents or representatives are prohibited from:

\* \* \*

(9) Engaging in a lockout of employees[.];

(10) delaying or refusing to participate in the impasse procedure in Section 33-81(c)(2) after the employer implements a final offer under Section 33-81(c)(2)(C).

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### **Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

97 *Approved:*

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100	/s/	7/15/04
	Steven A. Silverman, President, County Council	Date

101 *Approved:*

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104	/s/	7/16/04
	Douglas M. Duncan, County Executive	Date

105     *This is a correct copy of Council action.*

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108	/s/	7/19/04
	Mary A. Edgar, CMC, Clerk of the Council	Date